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Commissioner

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RE: 2006 Biennial Transmission Assessment -- Docket No. E-00000D-05-0040

Dear Commissioners:

In accordance with the instructions included with the Draft Biennial Transmission Assessment 2006 Report (the "Draft Report"), the Arizona Competitive Power Alliance ("AzCPA") hereby offers its comments on various issues raised in the Draft Report. The AzCPA is a nonprofit business organization whose members include the owners and operators of merchant generation facilities sited and constructed (or approved to be constructed) in Arizona, along with retail electric suppliers and power marketers, all of whom are active in, or propose to be active in, the State of Arizona. The AzCPA therefore has a significant stake in the issues contained within the Draft Report, including the reliability and robustness of the Arizona transmission system, and the ability to supply competitively-priced wholesale and retail energy to Arizona customers.

In its current form, Section 4 of the Draft Report raises a number of issues regarding the reliability of the Arizona transmission system and offers a number of suggested approaches to increasing the reliability of that system to ensure reliable service for Arizona consumers. Among the suggested approaches are the requirement that merchant generation plants be required to have multiples interconnection points on the Arizona transmission system, that proposed new facilities demonstrate that they can operate under the Western Electricity Coordinating Council ("WECC") operating standards such that they can withstand an N-1 operating contingency¹ without incorporating a Remedial Action Scheme ("RAS"), that new transmission lines built to interconnect merchant facilities terminate at the actual generating facility and not at a substation

¹ N-1 refers to the system's ability to recover from the loss of the single largest transmission line and continue to operate without experiencing any interruptions of service to customers.

or switchyard, and that merchant generators who own or operate a common switchyard be required to provide mandatory interconnections to new transmission lines constructed by Arizona's transmission owning public service corporations.

The AzCPA believes (A) that these recommendations of staff need to be clarified in order to avoid confusion regarding (i) who retains what obligations for the reliability of the transmission system, and (ii) the line between the jurisdiction of this Commission versus the Federal Energy Regulatory Commission ("FERC") with regard to interconnection standards, reliability standards and the ratemaking treatment accorded to transmission facilities; and (B) that policies not be put in place that would unfairly discriminate against merchant generation facilities in the siting, construction and operation of generation facilities. These concerns are addressed in turn, below.

Multiple Interconnection Requirement

The Draft Report makes references throughout to a proposed requirement that proposed new generation facilities provide at least two transmission lines that will interconnect that plant to at least two discrete points on the transmission grid, which the Draft Report characterizes as "Arizona's best engineering practices." The AzCPA believes that this recommendation is a relatively new development that is unique to Arizona and has not, to the AzCPA's knowledge, been adopted by the WECC, the North American Electric Reliability Corporation ("NERC"),² or any other industry body that approves or advocates for reliability standards. This standard has also been rejected by the Siting Committee and this Commission in at least three (3) previous cases.³ The AzCPA believes that the Commission should exercise care before adopting such a requirement, which appears to have little support or any factually demonstrated improvement to transmission reliability.

The AzCPA would further note that, if such a requirement were to be adopted and applied only to merchant generation that such a policy would discriminate against merchant facilities by adding significant siting, construction and maintenance costs to those facilities, which would place them at a significant competitive disadvantage vis-à-vis utility-owned plants, despite the fact that there is no inherent distinction between utility plants and merchant plants in terms of reliability.

N-1 Criteria and Remedial Action Schemes

As discussed above, RAS and other operating procedures engineered to allow the system to correct for equipment failures without causing service interruptions are part of the industry standard put forward by the WECC, NERC and other bodies charged with adopting reliability standards. RAS is a commonly used tool that allows the system control operator to maintain

² Pursuant to Section 215 of the Energy Policy Act of 2005, the FERC has recently designated NERC, a subsidiary of the North American Electric Reliability Council, as the Electric Reliability Organization the entire United States. See, 116 FERC ¶61,062 (2006) in Docket No. RR06-1-000. Among its duties, NERC will be tasked with the development and enforcement of mandatory reliability standards.

³ See Arlington Valley, Harquahala and Mesquite CEC cases.

system stability while recovering from operating contingencies such as N-1. The AzCPA believes it would be unwise for the Commission to endorse policies or standards that would place Arizona into conflict with the standards adopted by these organizations, and could create future problems between Arizona control area operators or generators that could complicate attempts to make emergency adjustments to the system. Adoption of the standards proposed in the Draft Report could also add substantial costs to customers without a justifiable corresponding increase in reliability.

Similarly, the AzCPA believes that adopting differing standards for utility plants and merchant plants could unfairly discriminate against merchant generation, as discussed above.

Termination of Transmission Lines at Generating Facilities and Mandatory Interconnection of New Transmission Lines to Merchant Switchyards

The FERC requires all jurisdictional transmission owners to file Open Access Transmission Tariffs that include provisions for the interconnection of generating facilities. The FERC has also issued decisions and orders regarding the designation of certain transmission upgrades necessitated by the interconnection of new facilities as "network facilities" and has given guidance to transmission owners, merchant generators, distribution utilities and state regulatory agencies as to how it will allocate the costs of new facilities between ratepayers and investors. The AzCPA believes that the Commission should be cautious so as not to adopt policies in conflict with FERC's orders and decisions, which could create regulatory uncertainty in this area. Such uncertainty would likely lead to less investment in the very system upgrades and reliability enhancements that the Commission should seek to encourage. Because the FERC has been given exclusive jurisdiction over wholesale power transmission and the associated ratemaking, the AzCPA encourages the Commission to look to FERC's guidance with respect to these matters. The Commission retains full regulatory authority over Arizona's transmission owners who are also state public service corporations, and the AzCPA believes that the Commission can most effectively promote the policies needed to ensure reliability by prudently exercising its authority over those public service corporations, rather than by adopting policies that intrude upon this area of exclusive federal regulation.

General Comments

The conclusions, recommendations and discussion in the Draft Report could be viewed as blurring the areas of responsibility between the transmission owner and merchant generators for maintaining the reliability of the transmission system. In its "Track A" Decision No. 65154, the Commission makes the following observation:

We believe that both transmission providers and merchant power plants should share the burden and obligation to resolve Arizona's transmission constraints. Decision No. 65154, at 25:23-25.
[Emphasis added]

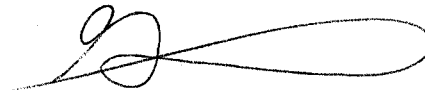
To date, the Commission has authored no decision interpreting this language, but the language in the Draft Report appears to rely on this language in making various assertions about costs that merchant generators should be expected to pay. The AzCPA believes that merchant generators satisfy their portion of the above obligations by making investments in transmission upgrades and other facilities necessary to maintain reliability in accordance with FERC policy, as well as by building generation facilities, when feasible, in locations that increase reliability by relieving transmission constraints. The AzCPA believes, however, that the laboring oar on transmission reliability rightly belongs with the transmission system owners, who are regulated by FERC under its authority over interstate commerce, and by this Commission in its oversight role with respect to public service corporations. The Commission should not endorse or propound any policies that would add confusion to the existing legal framework, or that would unfairly place merchant generators in the shoes of transmission owners by requiring them to, in essence, dedicate their facilities to serve the public.

The AzCPA believes that the Commission did not intend such an outcome at the time it issued Decision No. 65154; rather, we believe that the Commission intended that merchant generators not create negative impacts on the reliability of the system by adding to transmission constraints, failing to offer capacity needed for ancillary services, or otherwise operating in a manner that degrades reliability.

Conclusion

The AzCPA appreciates the effort and cooperation that has gone into the Draft Report. There are many critical issues facing Arizona with regard to its transmission system, and it will take the continued focused efforts of many parties to achieve an outcome that is in the public interest, consistent with existing industry standards and legal authority. The AzCPA asks the Commission to carefully consider these comments and suggestions. We look forward to continued participation in the 2006 Biennial Transmission Assessment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Greg Patterson', with a long, sweeping horizontal line extending to the right.

Greg Patterson
Executive Director